

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

GREGORY LEBRUN

CIVIL ACTION NO. 19-cv-1379

VERSUS

JUDGE DONALD E. WALTER

KANSAS CITY SOUTHERN RAILWAY CO MAGISTRATE JUDGE HORNSBY

MEMORANDUM ORDER

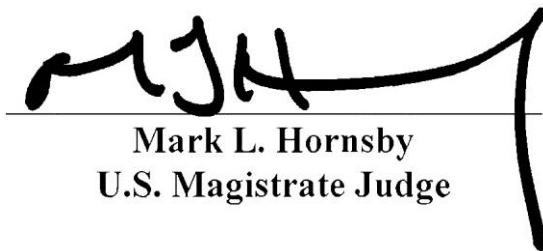
This is a FELA personal injury case. Before the court is Plaintiff's First Motion to Compel. Doc. 68. The motion concerns the timing for production of surveillance materials. Plaintiff argues that the surveillance materials are substantive evidence that may not be withheld until the completion of Plaintiff's deposition. Defendant argues that the policy in this court has been to require production of surveillance materials but only after Plaintiff has been deposed.

Courts in this circuit have taken different approaches to this issue. In Krekorian v. FMC Technologies, Inc., 2017 WL 1284191 (E.D. La. 2017), the court found that the proper procedure was to require production of surveillance materials after Plaintiff's deposition. In Chargois v. United Rentals, Inc., 2020 WL 1880777 (M.D. La. 2020), the court noted the differing approaches to the issue, but ordered the production of surveillance materials prior to Plaintiff's deposition, finding that withholding such materials until after the deposition would nullify the discovery process.

This is a matter over which the court has considerable discretion. It has long been the policy of the judges in this district to allow defendants to withhold production of

surveillance materials until after a plaintiff's deposition. Indeed, Magistrate Judge Hanna recently recognized that, consistent with longstanding precedent, "surveillance becomes discoverable once the plaintiff is deposed on the topics contained in the surveillance." Louviere v. W&T Offshore, Inc. 2018 WL 1566864 *2 (W.D. La. 2018). While reasonable minds can and do disagree on this issue, the best exercise of the court's discretion is to follow the court's longstanding precedent. Accordingly, **Plaintiff's First Motion to Compel (Doc. 68) is denied.** Defendant is ordered to produce the surveillance materials to Plaintiff's counsel within 72 hours of the completion of Plaintiff's deposition.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 6th day of October,
2020.



Mark L. Hornsby
U.S. Magistrate Judge